

Decision 01-05-091 May 24, 2001

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Proposed Policies Governing  
Restructuring California's Electric Services  
Industry and Reforming Regulation.

Rulemaking 94-04-031  
(Filed April 20, 1994)

Order Instituting Investigation on the  
Commission's Proposed Policies Governing  
Restructuring California's Electric Services  
Industry and Reforming Regulation.

Investigation 94-04-032  
(Filed April 20, 1994)

**OPINION CONCERNING ELECTRIC RESTRUCTURING  
EDUCATIONAL EFFORTS**

**Summary**

When electricity deregulation was introduced in California, an integral part of the program was the customer education effort. The Commission recognized that there was a need to educate consumers about the changes occurring in the electric industry, and how those changes would affect them. (D.95-12-063 [64 CPUC2d 1, at p. 84], as modified by D.96-01-009.)<sup>1</sup> As part of the California Legislature's deregulation initiative, Assembly Bill (AB) 1890 (Stats.

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<sup>1</sup> D.95-12-063, as modified by D.96-01-009, is commonly referred to as the Preferred Policy Decision. D.95-12-063 is found in 64 CPUC2d 1, and D.96-01-009 is found in 64 CPUC2d 228.

1996, ch. 854) specifically mandated the development and implementation of a customer education program.<sup>2</sup> As a result, various customer education efforts were adopted and carried out. At the present time, there are some customer education activities which have not been completed. These consist of the activities of the Electric Education Trust (EET) utilizing the services of community-based organizations (CBOs), and the education of small businesses under the auspices of the Commission's Consumer Services Division (CSD).

Since the Commission and the Legislature first adopted and implemented the electric deregulation initiatives, the electricity market has changed dramatically. The price of wholesale electricity and natural gas have increased significantly, Stage 2 and Stage 3 power alerts have been frequent occurrences, rate surcharges in response to the electricity crisis have been instituted, and Californians have encountered rolling blackouts. More blackouts are likely unless significant energy conservation efforts are undertaken.

The focus of these uncompleted customer education efforts should be adjusted to account for these recent events. Instead of focusing on direct access, these educational efforts should be broadened to include messages about conserving electricity, eligibility for the California Alternate Rates for Energy (CARE) program, and the exemption of certain customer classes from the recently adopted three-cent per kWh surcharge. Today's decision clarifies that

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<sup>2</sup> Former Public Utilities Code § 392(d), which was added by AB 1890, and subsequently relabeled as Public Utilities Code § 392(b) by Chapter 275 of the Statutes of 1997 provides as follows: "Prior to the implementation of the competition transition charge, electric corporations, in conjunction with the commission, shall devise and implement a customer education program informing customers of the changes to the electric industry. The program shall provide customers with information necessary to help them make appropriate choices as to their electric service. The education program shall be subject to approval by the commission."

the focus of these uncompleted customer education efforts should be adjusted to reflect these new educational priorities.

## **Background**

The Preferred Policy Decision set the groundwork for the establishment of a customer education program and an independent education trust. (D.95-12-063 [64 CPUC2d at p. 84].) In D.97-03-069 (71 CPUC2d 440) the Commission authorized the three largest electric utilities in California to develop and implement a joint customer education program in conjunction with the Commission. D.97-03-069 also authorized the formation of the EET. Separate customer education programs for two smaller electric utilities were authorized in D.97-08-063 (74 CPUC2d 489). In D.97-08-064 (74 CPUC2d 508), the Commission approved the customer education program, and authorized a total budget for all of these educational activities. The EET was specifically authorized in D.97-08-064 to manage the education and outreach efforts utilizing the services of CBOs. The EET was ordered to file a proposal describing the design of the CBO education and outreach effort, and the efforts of the EET.

In D.98-07-098, the Commission reviewed the EET's proposed work plan and budget. Due to a lack of detail as to the kinds of activities the EET would be engaged in, and how the CBO educational effort would be designed or carried out, the EET was ordered to file a more detailed plan. In D.98-12-085, the Commission approved the EET's plan for the CBO outreach efforts. The EET was directed to file a revised plan and budget describing the kinds of non-CBO education efforts that the EET was to carry out. The non-CBO efforts of the EET were approved in an assigned Commissioner's ruling dated April 23, 1999.

On April 27, 1999, CSD requested, among other things, an additional \$1.5 million to fund educational efforts targeted at small businesses. The Commission authorized CSD to do so in D.99-08-024. However, CSD was

ordered to file a plan with details on how it plans to use the funds, who it plans to use to implement the plan, and the projected budget and schedule for implementing the plan. CSD filed its small business education plan on September 7, 1999. In accordance with D.99-08-024, the Commissioner assigned to direct access reviewed CSD's plan, and issued a ruling on October 19, 1999 authorizing CSD to implement the small business education outreach activities as described in CSD's filing of September 7, 1999, and in accordance with the October 19 ruling.

When the customer education efforts were first established, the primary themes and messages that the Commission wanted to convey was to inform consumers about the changes to the electric restructuring, how those changes affects them, and what their choices and options are with respect to direct access. Other messages and themes included information about potential marketing abuses, the continued safety and reliability of the generation and transmission network, the competition transition charge, aggregation, renewable energy, and energy efficiency. All of this information was to be conveyed in a neutral and unbiased manner, which allows consumers to make informed choices. (71 CPUC2d 440, 457-458; 74 CPUC2d 508, 538.)

When the Commission reviewed the initial work plan and budget of the EET in D.98-07-098, the Commission noted that the work plan called for the awarding of the CBO grants in three phases. The Commission stated that it saw merit in this suggestion because it would allow the administrative committee of the EET time "to fine-tune the outreach program should changes be necessary as a result of monitoring the phase one efforts." (D.98-07-098, p. 17.) When the CBO effort was approved in D.98-12-085, the Commission noted that the phased funding cycles for the CBOs would allow the EET to research and evaluate

potential problem areas, and to “make changes and improvements to the outreach effort before the next funding cycle is initiated.” (D.98-12-085, p. 30.)

## **Discussion**

Circumstances have changed significantly since the electric industry was deregulated in California. The wholesale price of electricity has risen dramatically and the price of natural gas has risen steeply as well. Increased demand, shortages of electricity, and unreasonable prices charged by generators, marketers, and brokers have contributed to the rise in electricity prices, and have led to rolling blackouts in California.

In order to minimize or prevent blackouts during the coming summer, the Governor and various state agencies are urging customers to conserve on their use of electricity and use electricity efficiently. The Governor’s 20/20 rebate program is one example of providing incentives to conserve electricity. (See Executive Order D-30-01.) These conservation and energy efficiency measures take on added importance because of the electricity rate surcharge that many ratepayers will pay. Conservation and energy efficiency efforts will help to reduce the demand for electricity, and help to reduce individual customer bills.

As a result of the dramatic changes in the electricity market, it is vital that the remaining customer education efforts focus their attention on these changes. That is, the CBO effort, as well as the small business outreach effort, should educate consumers about what they can do to conserve energy and use electricity and natural gas efficiently so that they can reduce their electricity consumption. The emphasis on conservation and energy efficiency will have a dual effect. It can lead to reductions in the customer’s electricity bill, and it will reduce the overall demand for electricity which will help minimize rolling blackouts.

Many small businesses that use large amounts of electricity and natural gas in their businesses are especially vulnerable to higher bills. Conservation

tips for this group of customers are important, including information about the 20/20 rebate program. The small business effort, as well as some of the CBO effort, should focus their efforts on educating this group about conservation and energy efficiency.

Low-income consumers of energy must also be informed about the availability of the CARE program. The CARE program provides eligible customers with a 15% discount on their energy usage. Just recently, in D.01-03-082, the Commission expanded the eligibility criteria for the program from 150% of the federal poverty guidelines to 175% for electric customers of Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE). This change will allow more low-income customers to participate in the CARE program. Customers eligible for the CARE program are also exempt from the three-cent per kWh surcharge adopted in D.01-03-082, and from the interim surcharge adopted in D.01-01-018, that was made permanent in D.01-03-082. The Commission stated in D.01-03-082 at page 38 that: “As we expand the eligibility for this important program, it is crucial to make eligible people aware of the program.” The remaining customer educational efforts should assist in making eligible residential customers aware of the CARE program, and inform eligible CARE customers of the exemption from the surcharge.

AB 1 from the First Extraordinary Session (Stats. 2001, ch. 4; referred to as AB1X) exempts residential customers, whose usage is below 130% of baseline, from rate increases.<sup>3</sup> D.01-03-082 at page 16 specifically stated that the three-cent

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<sup>3</sup> This exemption remains in effect until such time as the Department of Water Resources “has recovered the costs of power it has procured for the electrical

*Footnote continued on next page*

surcharge “will not apply to residential usage below 130% of baseline rates.”

The CBO educational efforts should incorporate this message into their efforts as well.

Since circumstances in the electricity industry have changed significantly since 1996, it is imperative that the remaining educational efforts that the Commission has previously authorized, be updated to reflect the current state of affairs. As the Commission noted in D.98-07-098 and D.98-12-085, changes and improvements should be made to the customer education efforts as circumstances warrant. Instead of focusing on the availability of direct access, the educational efforts should be changed to reflect current topics of interest such as conservation, including the 20/20 rebate program, energy efficiency, eligibility for the CARE program, and exemptions from the rate increases.

Low-income educational efforts are also being pursued in the low-income assistance programs in Application (A.) 00-11-009, A.00-11-011, A.00-11-012, and A.00-11-020. The EET and CSD should coordinate their educational efforts with this effort.

The EET is directed to ensure that the remaining educational efforts of the CBOs incorporate these messages and themes. CSD is directed to ensure that the small business outreach effort also incorporates these messages and themes.

Today’s decision does not modify past Commission decisions regarding the customer education programs, the EET, or small business outreach. Instead, we are simply refocusing and fine-tuning the remaining educational outreach efforts to reflect current circumstances.

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corporation’s retail end use customers” as provided for in Division 27 of the Water Code. (Water Code § 80110.)

### **Comments On Draft Decision**

The draft decision of the Administrative Law Judge (ALJ) in this matter was mailed to the parties on April 24, 2001, in accordance with Section 311(g)(1) of the Public Utilities Code and Rule 77.7 of the Commission's rules. Parties to this proceeding were provided with an opportunity to comment on the draft decision. PG&E was the only party that filed comments, and its comments recommend the adoption of the draft decision.

### **Findings of Fact**

1. AB 1890 mandated the development and implementation of a customer education program.
2. The Commission has authorized various customer education programs, some of which have not been completed.
3. When the customer education programs were established, certain themes and messages regarding the deregulated electricity market were the focus.
4. The Commission recognized that changes to the educational outreach effort might be needed.
5. Circumstances have changed significantly since the electric industry was deregulated in California.
6. The Governor and various state agencies are urging customers to conserve on their use of electricity and use electricity efficiently.
7. Eligibility for the CARE program has been expanded as a result of raising the eligibility criteria from 150% to 175% of the federal poverty guidelines for electric customers of PG&E and SCE.
8. Customers eligible for the CARE program are exempt from the surcharges adopted in D.01-01-018 and D.01-03-082.
9. AB1X exempts residential customers whose usage is below 130% of baseline, from certain rate increases.



10. D.01-03-082 stated that the three-cent per kWh surcharge will not apply to residential usage below 130% of baseline rates.

11. The ALJ's draft decision was mailed to the parties on April 24, 2001.

### **Conclusions of Law**

1. The uncompleted customer education efforts should be adjusted to account for the recent changes to the deregulated electricity markets, and focus on such topics as conservation, including the 20/20 rebate program, energy efficiency, eligibility for the CARE program, and any exemptions from rate increases.

2. The EET and CSD should be directed to ensure that the remaining educational efforts of the CBOs and the small business outreach effort incorporate these new themes and messages.

3. Today's decision does not modify past Commission decisions.

### **O R D E R**

#### **IT IS ORDERED** that:

1. The Administrative Committee of the Electric Education Trust is directed to ensure that all of the uncompleted customer education efforts, authorized in past Commission decisions and rulings, be updated to ensure that the educational efforts disseminate information on energy conservation, including the 20/20 rebate program, energy efficiency, eligibility for the California Alternate Rates for Energy (CARE) program, and any authorized exemptions from rate increases.

2. The Commission's Consumer Services Division is directed to ensure that all of the uncompleted educational efforts targeted at small businesses, be

updated to ensure that the educational efforts disseminate information on energy conservation and energy efficiency.

This order is effective today.

Dated May 24, 2001, at San Francisco, California.

LORETTA M. LYNCH  
President  
CARL W. WOOD  
GEOFFREY F. BROWN  
Commissioners

We will file a dissent.

/s/ RICHARD A. BILAS  
Commissioner

/s/ HENRY M. DUQUE  
Commissioner

R.94-04-031, I.94-04-032  
D.01-05-091

Commissioners Bilas and Duque, dissenting:

Today's decision is another stab in the death of a thousand cuts for direct access. We cannot have a functional wholesale market without it. That cannot be emphasized emphatically enough. Fixing this dysfunctional market requires a retail demand component. Senator Bowen certainly recognizes this fact and is carrying a bill to do away with the AB1X Code Section which encouraged this Commission to kill direct access. By this decision, this Commission is sticking its head in the sand and ignoring the Senator's efforts. Direct access is still alive and kicking though it is gasping for breath. Direct access needs resuscitation, rather than a policy to smother it. The majority contends that the low level of direct access providers justifies us diverting these funds. It believes that dysfunctional market prices have caused ESPs to exit the state. It is not the market that is driving ESPs out of business, it is this Commission's concerted efforts to force them out. We do not condone these efforts.

The electric education trust (EET) was set up for one purpose and one purpose only. That purpose is to educate consumers about choice. Now customer education money will be spent not to foster direct access, but to educate about CARE discounts and conservation. We already have outreach efforts on these fronts. There is no need to raid the EET to add to them. P.U. Code Section 392(b) states that the consumer education program "shall provide customers with information necessary to help them make appropriate choices as to the their electric service." AB 1890 added this code section specifically to deal with education about choice of providers under electric restructuring. By broadly construing this language to cover a choice to conserve or a choice to seek a CARE exemption, today's order violates the meaning and intent of Section 392. Today's order is simply part of a foolhardy effort to abolish direct access.

We respectfully dissent.

**/s/ RICHARD A. BILAS**  
Richard A. Bilas  
Commissioner

**/s/ HENRY M. DUQUE**  
Henry M. Duque  
Commissioner

San Francisco, California  
May 24, 2001